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LETTER DATED 17 SEPTEMBER 1998 FROM THE PERMANENT REPRESENTATIVE OF BOSNIA AND HERZEGOVINA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

The Security Council is in receipt of a letter dated 9 September 1998 from Judge Gabrielle Kirk McDonald, President of the International Criminal Tribunal for the Former Yugoslavia and, by reference, of letter dated 1 September 1998 from Prosecutor Louise Arbour to Judge McDonald.

Judge McDonald reminds the Security Council of the continuing failure of the Federal Republic of Yugoslavia (Serbia and Montenegro) to uphold its commitments under international law and the Dayton/Paris Agreement. Without taking a view as to the analysis of Judge McDonald, Bosnia and Herzegovina, as a signatory to the Dayton/Paris Agreement, has a direct interest in addressing any non-compliance, or violation, of the Agreement.

In order to be able to accurately inform and advise our Government, we respectfully request the Security Council to indicate as to whether, in fact, it does consider such non-compliance to have occurred, and, if so, we wish to understand what steps the Council will take as a consequence. As Judge McDonald has noted, the Security Council has already indicated in the past its view regarding non-compliance and has determined to remain seized of the situation. Judge McDonald, in her letter, emphasizes: "The Security Council created the International Tribunal, determining that such a measure was appropriate and necessary to bring about the restoration of international peace and security. The achievement of this goal, and thus of the International Tribunal's mandate, requires the complete support of the Security Council. States, collectively and individually, have assisted the International Tribunal in the face of recalcitrance by other States in the former Yugoslavia, acting through multinational armed bodies to force compliance with the International Tribunal ... Accordingly, the International Tribunal is dependent on the Security Council taking the necessary action to ensure the compliance of the Federal Republic of Yugoslavia. The conduct of the Government of the Federal Republic of Yugoslavia, therefore, displays contempt for the Security Council. Not only does the Federal Republic of Yugoslavia consider itself to be outside international law, it has become a haven for fugitives from international law'.

As Judge McDonald notes, "The Federal Republic of Yugoslavia, as a signatory to the Dayton Agreement, is further bound to cooperate with the International Tribunal (Framework Agreement, article 9; annex 1-A, article 10; annex 7, article 3(2)). In the modern international community, such contempt for the authority of the Security Council and international law should not be countenanced". We emphasize, that if the Federal Republic of Yugoslavia (Serbia and Montenegro) is in fact in violation of the Dayton/Paris Agreement, as well as various Security Council resolutions and international law, then it is imperative for the integrity of the Peace Agreement that the Security Council undertake the appropriate measures and fulfil its obligation to the Peace Agreement which it has endorsed (Security Council resolution 1031 (1995)).

May I ask for your kind assistance in circulating the present letter as a document of the Security Council.

(Signed) Muhamed SACIRBEY
Ambassador
Permanent Representative